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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,798	11/03/2003	Glen Van Datta	450133-04863.1	6261

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EXAMINER

OSMAN, RAMY M

ART UNIT	PAPER NUMBER
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2157

MAIL DATE	DELIVERY MODE
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07/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Status of Claims

1. This communication is responsive to application filed on November 3, 2003. Claims 1-53 are pending examination.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I.* Claims 1-11,13-23, drawn to decentralized controlling, classified in class 709, subclass 243.
 - II.* Claims 12,45-51,52, drawn to computer network monitoring, classified in class 709, subclass 224.
 - III.* Claims 26-34,53, drawn to computer network managing, classified in class 709, subclass 223.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions *I*, *II* and *III* are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)).
4. In the instant case, the combination *I* as claimed does not require the particulars of the subcombinations *II* and *III* as claimed because the steps involved in *I* relate to data relaying in a peer-to-peer network and is not dependent upon the steps involved *II* and *III*. The

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subcombinations have separate utility since *II* relates to tracking and maintaining connections in a peer network and since *III* relates to managing a peer-to-peer network by adding peers.

Also, the combination *II* as claimed does not require the particulars of the subcombinations *I* and *III* as claimed because the steps involved in *II* relate to tracking and maintaining connections in a peer network and is not dependent upon the steps involved *I* and *III*. The subcombinations have separate utility since *I* relates to data relaying in a peer-to-peer network and since *III* relates to managing a peer-to-peer network by adding peers.

Furthermore, the combination *III* as claimed does not require the particulars of the subcombinations *I* and *II* as claimed because the steps involved in *III* relate to managing a peer-to-peer network by adding peers and is not dependent upon the steps involved *I* and *II*. The subcombinations have separate utility since *I* relates to tracking and maintaining connections in a peer network and since *II* relates to data relaying in a peer-to-peer network.

5. The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

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6. Because these inventions are distinct for the reasons given above and have attained recognition in the art as a separate subject of inventive effort as demonstrated by their different classification and thus requiring a separate field of search for each invention, restriction for examination purposes as indicated is proper.

7. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS ACTION IS SET TO EXPIRE THIRTY DAYS FROM THE MAILING OF THIS COMMUNICATION. FAILURE TO RESPOND WITHIN THE PERIOD FOR RESPONSE WILL CAUSE THE APPLICATION TO BECOME ABANDONED (35 USC § 133). EXTENSION OF TIME MAY BE OBTAINED UNDER PROVISION OF 37 CFR 1.136(A).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramy M. Osman whose telephone number is (571) 272-4008. The examiner can normally be reached on M-F 9-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RMO

June 24, 2007


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SUPERVISORY PATENT EXAMINER
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